

Assembly Bill 2612 (Brewer) Chapter 607
Intercounty Pipeline Rights-of-Way

Effective January 1, 2001. Amends Section 401.10 of the Revenue and Taxation Code.

Extends, from January 1, 2001 to January 1, 2011, specified property tax assessment procedures for intercounty pipeline rights-of-way.

Sponsor: California Manufacturers and Technology Association

Law Prior To Amendment:

Commencing in 1993, assessors were required to begin to assess intercounty pipeline rights-of-ways after a court ruling held that the prior assessment of these rights by the Board of Equalization was outside of its jurisdiction. The property tax collected on the Board assessments were to be refunded and county assessors were to instead levy escape assessments retroactively to the 1984-85 tax year based on their own determinations as to the value of these interests. Existing law, Section 401.10 of the Revenue and Taxation Code, reflects an agreement reached in 1996 between county assessors and intercounty pipeline rights-of-way owners to set forth the assessment methodology for this assessment transition. These procedures have been used to determine the assessed value of intercounty pipeline rights-of-way for the 1984-85 through 2000-01 tax years. When this methodology is followed, the value so determined is rebuttably presumed to be correct. Section 401.10 is repealed by its own provisions on January 1, 2001. The agreement also sets forth, in Section 401.11, the treatment of tax refunds and escape assessments, as applicable for purposes of the assessment transition. Section 401.11 was repealed by its own provisions on January 1, 2000.

In General:

Intercounty pipeline rights-of-way, for tax years 1984-85 through 2000-01, may be assessed according to a prescribed dollars-per-mile schedule that determines value according to the "density classification" of the property as follows: \$20,000 per mile for high density, \$12,000 per mile for transitional density, and \$9,000 per mile for low density. When a county assessor uses this methodology to value pipeline rights-of-way the property owner is precluded from challenging the legality of the assessment. If the methodology is not followed, then the property owner may challenge the legality of the assessment and the assessor's presumption of correctness is negated.

Background:

Intercounty pipeline rights-of-way were assessed by the Board from 1982 until 1993. In 1993 an appellate court ruled that, while the pipelines themselves are properly assessed by the Board, the rights-of-way through which the pipelines run were outside of the Board's assessment jurisdiction. Instead, county assessors were directed to make these assessments. (*Southern Pacific Pipe Lines, Inc. v. State Board of Equalization* 14 Cal.App.4th 42) A pivotal issue giving rise to this litigation is that property assessed by the Board is not subject to the assessment limitations of Proposition 13. Board assessed property is reassessed each year at current fair market value, whereas property assessed by the county assessor is assessed at the base year value (year of acquisition), increased by the annual 2%-maximum inflation factor. Pipeline operators naturally preferred assessment at the local level.

As a result of the court case, taxes collected based on Board assessments were to be refunded. County assessors were to value these interests and levy escape assessments for the tax years 1984-85 and forward. (In practice, whether the property is valued by the Board or the county assessor, the county collects the taxes as well as distributes the resulting revenue to other local governments.) The intercounty nature of these interests made the valuation process difficult under traditional local assessment procedures. In addition, uniform valuation of these interests by the 58 local counties was lacking. To avoid protracted litigation over these assessments, pipeline owners and counties negotiated the assessment methodology outlined in Section 401.10 and escape assessment/refund process of 401.11, which was subsequently codified by AB 1286 (Ch. 801, Takasugi, Stats. 1998).

Comment:

Purpose. To extend the assessment methodology provision for intercounty pipeline rights of way which has been proven to work well.